

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JOSE MANUEL LAYNE, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

VALARIE LEE LAYNE,

Respondent-Appellant.

UNPUBLISHED
February 21, 2006

No. 265063
Branch Circuit Court
Family Division
LC No. 03-002647-NA

Before: Borrello, P.J., and Sawyer and Fitzgerald, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The trial court did not clearly err in determining that the statutory grounds for termination of parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence showed that respondent failed to nurture, interact with, or properly supervise the minor child, Jose. The condition leading to adjudication was respondent's improper supervision of Jose, which was a manifestation of her limited capacity and lack of attachment to him. Because of her limited intellectual capacity, respondent lacked discernment about who was an appropriate caretaker for Jose and who was an appropriate associate for herself, placed her own needs above Jose's, and made poor decisions. During the two-year proceeding, respondent complied with some services but made little progress. The minor child was returned to her on two occasions, not because she had rectified the conditions leading to adjudication, but in lieu of making him endure the emotional trauma of moving to a different foster home.

Given respondent's lack of progress during the two-year proceeding, her association with a sex offender, Jose's continued lack of proper supervision, and the fact that respondent's lack of capacity would not change, there was no reasonable expectation that respondent would rectify the conditions of adjudication or be able to provide proper care or custody within a reasonable time. Jose was at risk of harm in respondent's care as evidenced by her continued lack of supervision and lack of discernment regarding her associates.

Further, the evidence did not show that termination of respondent's parental rights was clearly contrary to the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Jose was bonded to respondent and affectionate toward her, but he was at risk of harm in her care. He would suffer emotionally by removal and placement in another unfamiliar home, however the negative of this temporary emotional harm was outweighed by the long-term benefit of being eligible for adoption. The trial court struggled with its decision, but the minor child could not safely remain in respondent's care and his best interests were served by being provided the opportunity for a safe, permanent home.

Affirmed.

/s/ Stephen L. Borrello
/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald